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Press Release

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**ATTORNEY GENERAL DARRELL V. MCGRAW, JR. OBTAINS
A SETTLEMENT FROM ELKINS MEMORIAL GARDENS.
CEMETERY AGREED TO PAY BACK CONSUMERS
AFTER FAILING TO BUILD MAUSOLEUM**

Attorney General Darrell V. McGraw, Jr. has secured a settlement with Elkins Memorial Gardens, a Randolph County cemetery which sold preneed burial crypts in a nonexistent mausoleum, then squandered consumers' money before the mausoleum could be built. Under the settlement, the cemetery must pay back every dollar it received from consumers for its sales of the crypts.

In April of this year, the Attorney General's office sued Heritage Group, Inc. d/b/a Elkins Memorial Gardens, and its operators John and Okey Phares, alleging that the company's salesmen appeared at consumer's homes offering steep discounts on burial crypts if consumers purchased their crypts. They promised reluctant consumers that the mausoleum would be built right away, but the cemetery has yet to begin construction since it began selling the crypts six years ago. The company also ignored state laws requiring sellers of preneed burial crypts to set aside 40% of sales proceeds in trust, to safeguard consumers' money until the crypts are needed. Over the years, Elkins Memorial Gardens had received more than \$100,000 from area consumers to build the mausoleum. At the time of the lawsuit, the cemetery had spent nearly all of that money.

Some consumers have passed away since the time they purchased the nonexistent mausoleum crypts. In those cases, the cemetery refused to refund their money and told grieving relatives that the only alternative was to entomb the deceased in an unattractive concrete outbuilding on the cemetery grounds. In contrast, state law requires that the cemetery provide accommodations which are similar in size, style and quality any time substitutions become necessary.

Attorney General McGraw's Consumer Protection Division brought the case in conjunction with Secretary of Tax and Revenue Brian Kastick, and Tax Commissioner Rebecca Melton Craig, who alleged that Elkins Memorial Gardens had failed to register to do business in West Virginia, and failed to report annually to the Tax Commissioner on the status of its operations and finances, as required by state law.

After the defendants failed to post a court-ordered bond in June, Judge John Henning of Randolph County Circuit Court ordered the case to go to trial right away. Before trial began, the defendants agreed to cooperate and settle the case on Thursday, July 17, 2003. They signed a consent order requiring them to pay more than \$109,000 in restitution over the next six months. The order also freezes their assets until full restitution is paid.

Once all funds are collected from the defendants over the next six months, Attorney General McGraw's Consumer Protection Division will begin contacting consumers to provide refunds. Any consumer who has purchased a mausoleum crypt from Elkins Memorial Gardens but has not been contacted by the Attorney General's office should call the Consumer Protection toll-free hotline at 800-368-8808.

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